2007-05781/

FOIP FOLIO

SASKATCHEWAN

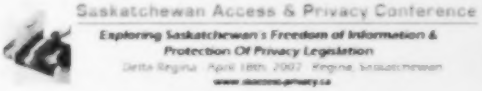
March 2007

ACCESS, PRIVACY AND HEALTH INFORMATION SESSIONS (APRIL 16, 17 and 18, 2007)

If you are in any way involved in Saskatchewan's growing 'access and privacy' community you should consider registering for one or more of these three information-packed days in Regina. Click on the boxes below for details of the program, speakers and registration forms.

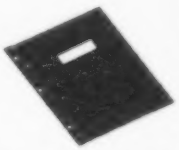
Day One (Monday, April 16, 2007) features Prairie Health Information Privacy Day 2007 with leading health information experts from across Canada discussing common problems and practical solutions. Speakers include **Frank Work**, Albert Information and Privacy Commissioner and **Irene Hamilton**, Manitoba Ombudsman. Whether you are a health provider or work in a health trustee organization, big or small, there will be valuable information to assist you in your compliance efforts.

Day Two (Tuesday, April 17, 2007) consists of workshops that will focus on skill development in such key areas as Governance and the EHR; How to be a FOIP/LA FOIP Coordinator; Conducting Privacy Impact Assessments; and The A to Z's of Responding to an Access Request.


Saskatchewan Access & Privacy Conference
Exploring Saskatchewan's Freedom of Information & Protection Of Privacy Legislation

Day Three (Wednesday, April 18, 2007) explores *The Freedom of Information and Protection of Privacy Act* (FOIP) and *The Local Authority Freedom of Information and Protection of Privacy Act* (LA FOIP). Whether you work for a school division, municipality, regional health authority, university or college, government department, agency, board or commission or a Crown corporation, there will be useful materials and information to assist you to navigate the statutory requirements.

NEW OIPC REPORT ON FEE ESTIMATES AND FEE WAIVERS



Report F-2007-001 considered Saskatchewan Northern Affairs' response to an Applicant who had requested a waiver of fees. The Commissioner found that Northern Affairs failed to respond to the fee waiver request and made specific recommendations as to what should be included in an appropriate response. The fee estimate that was issued by Northern Affairs failed to comply with our specific recommendations for an appropriate

NEW OIPC REPORT ON FEE ESTIMATES AND FEE WAIVERS (cont'd)

fee estimate in Report F-2005-005. It failed to break out the estimated costs for (1) searching for responsive records and (2) preparing the record for disclosure. Northern Affairs failed to provide an interim notice as recommended in Report F-2005-005.

The Commissioner discussed the problems that arose when Northern Affairs tried to respond to the access request not just on its own behalf but also on behalf of two other government institutions. The Commissioner also commented on the inefficiency and related problems that occur when some eleven different persons in five different government departments are involved in determining an appropriate response to a single access request. This Report includes a number of specific recommendations for Northern Affairs to improve its performance and statutory compliance when responding to access for information requests. You can access the Report at our website: www.oipc.sk.ca under the *Reports* tab.

CAN THE FEDERAL PRIVACY COMMISSIONER DEMAND TO SEE SOLICITOR-CLIENT DOCUMENTS?

On March 29, 2007 the Supreme Court of Canada granted leave to the federal Privacy Commissioner to appeal from the decision of the Federal Court of Appeal in **Blood Tribe Department of Health v. Privacy Commissioner of Canada**. At issue is whether the Privacy Commissioner of Canada can compel the production of documents over which a claim of solicitor-client privilege is asserted in an investigation under the *Personal Information Protection and Electronic Documents Act*.

EXCELLENT INITIATIVES AT COMMUNITY RESOURCES

Congratulations to the new FOIP Officer at the Department of Community Resources, **Cathy Bulych** (Director of Program Support Services). Cathy has extensive experience working with federal access and privacy legislation on behalf of federal government institutions. Cathy and her 'access and privacy team' have developed several new tools to promote FOIP compliance. These include the *Privacy Related Incident Management Escalation Policy/Protocol*, the brochure "*Privacy Issues in the Workplace: Access and Privacy Legislation*" and a comprehensive flow chart for the internal processing of an access to information request. They have also started producing information and advice pieces in internal department bulletins.

LAPTOP SECURITY & ENCRYPTION

Every week we hear more stories of laptops that have been stolen in all parts of Canada.

Information and Privacy Commissioners have been paying close attention to this widespread risk to the privacy of Canadians and the confidentiality of their personal information.

Ontario Information and Privacy **Ann Cavoukian** has released Order HO-004 that addressed the theft of a laptop that belonged to the Hospital for Sick Children. It contained personal health information of current and former patients. After an investigation under Ontario's *Personal Health Information Protection Act*, she ordered the hospital to revise policies and procedures to ensure that, to the extent personal health information (PHI) must be removed from hospital premises, it must be encrypted. She also offered a list of detailed recommendations to reduce the risk of loss of data. Her concluding comment: ***There is no excuse for unauthorized access to personal health information due to the theft or loss of a mobile computing device – any PHI contained therein must be encrypted.*** This Order is accessible at http://www.ipc.on.ca.

The Ontario Order and findings are remarkably consistent with Investigation Report P2006-IR-005 issued by the Alberta Information and Privacy Commissioner, **Frank Work**, last September 2006. This investigation was under the *Personal Information Protection Act* (PIPA). MD Management Ltd offered financial products to members of the Canadian Medical Association. An employee had parked his vehicle with the laptop inside. When he returned 10 minutes later, he noticed that someone had unzipped the back window of his jeep and had stolen the laptop containing personal information of approximately 8,000 individuals. The Alberta Commissioner found that a log-on password which can be easily circumvented does not provide reasonable security. In his recommendations, he urged organizations to ensure that all laptops that contain personal information are equipped with data encryption capability that cannot be disabled by the user. The Alberta Investigation Report is available at www.oipc.ab.ca.

Finally, British Columbia Commissioner **David Loukidelis** made similar recommendations in his Investigation Report F06-02. This is available at www.oipc.bc.ca.

In Saskatchewan we recommend that FOIP Coordinators and Privacy Officers in all Saskatchewan public sector organizations make a point of reading these decisions and carefully consider whether their organizations currently meet this emerging standard for data protection.

THE 'LAWFUL INVESTIGATION' EXEMPTION FROM A NEWFOUNDLAND & LABRADOR PERSPECTIVE

The Newfoundland and Labrador Information and Privacy Commissioner has produced a lengthy report dealing with a number of exemptions invoked by Memorial University in denying access to a 1994 report dealing with research integrity. Since the Newfoundland statutory provision is similar to section 15(1)(c) of our FOIP Act, the analysis done by that Commissioner is relevant. He concluded that this exemption was intended to apply to an ongoing investigation and not one already concluded. This is consistent with the way that this office interprets that provision. This Newfoundland and Labrador Report 2007-003 is available at www.oipc.gov.nl.ca.

CAN WE IMPROVE PRIVACY PROTECTION IN SASKATCHEWAN?

Recent massive data breaches in Canada are an urgent wake-up call for organizations to ensure they have strong privacy safeguards in place. In Saskatchewan the OIPC has urged the provincial government to put into our public sector privacy laws (FOIP and LA FOIP) a clear obligation on all public bodies to take reasonable safeguards to protect the personal information and personal health information in their control. We have suggested that this should be reinforced by a specific offence provision and a substantial penalty in the case of conviction. These are common features of modern privacy laws in Canada. We have also urged in past Annual Reports that administrative tribunals in Saskatchewan need to reassess the kind of personal information they publish on the Internet.

IDENTITY THEFT: THE BITE THAT COULD LEAD TO AN INFECTION (By Marly Markin)

As identified in last month's issue of the FOIP FOLIO, March is Fraud Awareness Month. Unlike the colourful ribbons worn during certain months that increase awareness for various chronic diseases, there are no ribbons that one can wear to publicly display that they have been victims of, or have known someone who has been affected by identity theft. The reason is that many do not know that they could potentially be, or even are, victims of identity theft. Just as many chronic diseases are rampant and debilitating in our community, identity theft is also a fast growing infection that could destroy the lives of its victims and could easily go undetected.

IDENTITY THEFT: THE BITE THAT COULD LEAD TO AN INFECTION (cont'd)

A recent article in the Leader Post entitled *Your stolen personal data worth $18 US* appears to confirm that identity theft is a lucrative and growing industry, suggesting that "an entire identity could be bought for as little as $14 US"[1]. How do thieves obtain this information? The article suggests that governments make up 25 percent[1] of divulged information, where health care industries contribute to 20 percent[1] and educational institutions supply 14 percent[1]. Interestingly, these three areas comprise three jurisdictions Saskatchewan's Information and Privacy Commissioner oversees.

In order to prevent such serious breaches, one should be informed of their rights. Those rights are upheld in statutes that protect their personal information and personal health information such as FOIP, as well as, HIPA. HIPA specifically applies to those in health care who deal with the access and release of personal health information such as Health Information Management professionals who work in health information departments in various health care settings.

Keeping those statutes in mind, one can actively protect their personal information and personal health information by destroying documents that contain sensitive information, as well as reviewing one's bank and credit card statements.

For more information on your right to protect the privacy of your personal information and personal health information, visit the Office of the Saskatchewan Information and Privacy Commissioner's website and view the pamphlet, *Your Right to Privacy*, http://www.oipc.sk.ca/resources.htm or visit the Office of the Privacy Commissioner of Canada's website for more information on identity theft, www.privcom.gc.ca

WELCOME TO OUR NEW HEALTH INFORMATION MANAGEMENT STUDENT

Marly Markin is a student enrolled in the Health Information Management program at the Saskatchewan Institute of Applied Science and Technology (SIAST) in Regina. She is currently completing her work practicum at the OIPC and is expected to graduate in June of 2007. Currently, Marly is exploring health information laws in Alberta, Saskatchewan, and Manitoba and plans to take the knowledge and skills she has gained from her unique experience and apply it throughout her career as a Health Information Management professional.

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[1]V. Pilieci, "Your stolen personal data worth $18 US" *The [Regina] Leader Post* (19 March 2007) A1.

FUTURE EVENTS

April 16, 2007 – *Prairie Health Information Privacy Day, 2007* – Delta Regina, Regina, Saskatchewan (visit www.verney.ca/phipd2007 for details)

April 17, 2007 – *Optional Access and Privacy Workshops* – Delta Regina, Regina, Saskatchewan (visit http://verney.ca/sapc2007/workshop.php for details)

April 18, 2007 - *Saskatchewan Access & Privacy Conference 2007 – Exploring Saskatchewan's Freedom of Information and Protection of Privacy Legislation* – Delta Regina, Regina, Saskatchewan (visit www./verney.ca/sapc2007 for details)

April 18-19, 2007 – *Privacy and Security in Government Information* – Ottawa, Ontario (visit www.federatedpress.com/pdf/PSGI0704-E.pdf for details)

April 26-27, 2007 – *Anti-Money Laundering* – The Sutton Place Hotel, Toronto, Ontario (visit www.CanadianInstitute.com for details)

May 1-4, 2007 – *17th Conference on Computers, Freedom & Privacy* – Montreal, Quebec (visit www.cfp2007.org/live for details)

May 2, 2007 – *Privacy and Data Protection Canada 2007* – Toronto, Ontario (visit www.transatlantic-events.com for details)

May 30-31, 2007 – *Privacy Compliance – Meeting Your Obligations and Challenges* – Toronto, Ontario (contact 1-877-927-7936 for details)

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